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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,448	12/09/2003	Alan T. Johnson	600-12-DIV5	4381

7590 04/29/2004  
Gabor L. Szekeres  
Suite 112  
8141 E. Kaiser Boulevard  
Anaheim Hills, CA 92808

EXAMINER

AULAKH, CHARANJIT

ART UNIT PAPER NUMBER

1625

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/731,448	JOHNSON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charanjit S. Aulakh	1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-9 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1, 2, 5-9 and 12-15 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

### DETAILED ACTION

1. According to a preliminary amendment filed on Dec. 9, 2003, the applicants have canceled claims 3, 4, 10, 11 and 16-20 and furthermore, have amended claims 1, 2, 6 and 9.

2. Claims 1, 2, 5-9 and 12-15 are now pending in the application.

### *Election/Restrictions*

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 2, 5-9 and 12-15, drawn to compounds of formula of claim 1 where Z represents  $-N=N-$ ,  $-N(O)=N-$  or  $-N=N(O)-$ , classified in class 546, subclass 326.
- II. Claims 1, 2, 5, 7 and 8, drawn to compounds of formula of claim 1 where Z represents  $-CR1=N$ , classified in class 549, subclass 71.
- III. Claims 1, 2, 5, 7 and 8, drawn to compounds of formula of claim 1 where Z represents  $-NR1-CO$  or  $-NR1-CS$ , classified in class 548, subclass 146.
- IV. Claims 1, 2, 5, 7 and 8, drawn to compounds of formula of claim 1 where Z represents  $-COO$  or  $CSO$ , classified in class 544, subclass 242.
- V. Claims 1, 2, 5, 7 and 8, drawn to compounds of formula of claim 1 where Z represents  $-OCO$  or  $OCS$ , classified in class 549, subclass 498.

4. The inventions I, II, III, IV and V as defined above are patentably distinct, each from the other since they are structurally so divergent that a reference showing compounds of invention I would not render compounds of inventions II through V prima facie obvious. Search required for e.g ; compounds of invention I in class 546 is not the same

search required for e.g ; compounds of invention II in class 549 and therefore, constitutes a burdensome search.

5. A telephone call was made to the applicant's attorney, Mr. Gabor L. Szekers on April 28, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is (571)272-0678. The examiner can normally be reached on Monday through Friday,

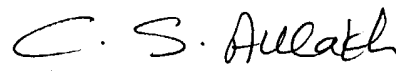
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8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charanjit S. Aulakh  
Primary Examiner  
Art Unit 1625